

Remarks

This amendment responds to the official action mailed December 11, 2007, and includes a Petition for Extension under 37 C.F.R. §1.136(a). The required official fees are submitted by EFS Deposit Account charge. Please charge any underpayment or credit any overpayment to Deposit Account 04-1679.

Objection was made to the drawings, disclosure and claims on the ground that certain claim limitations were not shown in the drawings or were not found in the specification in the same language as used in the claims (official action sections 3 and 4). These limitations are the rigid attachment of the pivot axes to the wall mounting arm, the forking of the wall mounting arm midway along its length, and the pivot axes being at a fixed spacing during pivoting.

Applicant has amended claim 1 to more closely follow the text of the description at paragraphs [0023] and [0024] of the published application (the paragraphs beginning respectively at page 7, line 15 and page 8, line 13, as filed). The application states at the end of paragraph [0024] that the wall mounting arm 5 is configured from a length of hollow profiled stock. Paragraph [0023] provides that the pivot axes are on the opposite ends of the wall mounting arm and are parallel. These passages disclose that the pivot axes are parallel and rigidly spaced, namely being on opposite ends of a length of stock.

Regarding the objection to the drawings for lack of depiction of the arm being forked midway along its length, applicant agrees that this aspect is found in the description but in the drawings (Fig. 2), the fork occurs nearer to the proximal end. Applicant has chosen to obviate the objection by cancelling dependent claim 10, without prejudice.

In addition to entering an objection to the phraseology defining that the pivot axes are rigidly attached to the pivot arm, the examiner rejected that claims on the ground that "rigidly attached" should be construed to define that the movable component is removable during regular operation. This claim construction point is illogical and is not understood. The claims prior to this amendment stated that the pivot axes were rigidly

affixed on the wall mounting arm. Of course the pivot axes remain attached to the arm and the pivot axes are not removable. The claims as amended recite that the pivot axes are on the ends of a length of stock that corresponds to the mounting arm 5, which has the effect of fixing the distance between the pivot axes.

On the other hand, the claims positively recite that the shower head 8 is detachably attachable to the wall-mounting arm. See claim 1, line 8. This aspect is positively claimed. The shower head 8 is removable for manual spraying, being coupled to the water supply through hose 10, or can be operated when affixed in the holder on the end of the wall mounting arm. In some embodiments, additional shower fixtures 11 along the arm are otherwise supplied with water, for example via internal passages in the wall mounting arm 5.

The claims have been amended to obviate any indefiniteness. The claim language is supported in the original disclosure. Applicant requests reconsideration and withdrawal of the rejections and objections under 35 U.S.C. §112, first and second paragraphs.

Claims 1, 3, 5 and 7-32 were rejected as anticipated by Gransow (6,442,775). However, Gransow plainly fails to disclose or suggest a support for a detachable shower head, on a wall-mounting arm jutting out of the mounting fixture along a longitudinal axis. On the contrary, the Gransow disclosure exclusively concerns a wall mounting arm carrying permanently attached shower heads that can be turned on mounting axes so as to adjust their aim.

The shower heads of Gransow are not detachable as claimed by applicant. Referring to Fig. 4 of Gransow, it is seen that both shower heads engage deeply into the two legs of the U-shaped arm 2. There is no possibility that these shower heads might be removed. They are mechanically captured in the structures shown. Moreover, the flow relationships are such that the person of ordinary skill could not routinely imagine detachment of the shower heads. Both Gransow shower heads are provided with water from the same conduit. If one or both of the shower heads would be removed, then water would flow out from the corresponding openings left in the tubes by removal of the shower head. If a Gransow shower head was removed, not only would that shower

head be decoupled from any water supply, but water would flow out from the openings in the mounting arm. There is absolutely no basis of record to conclude that Gransow's shower heads are removable or to suggest that removing them from the mounting arm would be likely to produce some beneficial result even if there was some removable structure involved, although no removable structure is disclosed in Gransow.

Page 7 of the official action contains a diagram illustrating how the Gransow disclosure was interpreted by the examiner. Reconsideration is requested. According to the diagram, the examiner has interpreted selected parts of Gransow's assembled shower head as being a shower head and has interpreted other parts of the same assembly as being a holder for a shower head. There is no basis for disassembling the Gransow shower head to construe parts of it as a shower head and other parts as a holder. The examiner's construction is an arbitrary construct of hindsight.

Even if there was some reason to believe that it would be possible to disassemble Gransow's shower head, the holder as so construed would be removable together with the construed showerhead housing. Nothing would preclude water from gushing out when the construed shower head housing was removed. There is simply no basis to assert that Gransow teaches or might lead toward applicant's claimed invention.

The examiner's construction of the claims and application of the prior art are faulty. The examiner's construction shown on page 7 of the action fails to address the elements of the invention as claimed, and furthermore, the construction is not consistent with the express disclosure of the Gransow reference. There is no basis to interpret an outer portion of an assembled shower head (which ought to be considered a shower head housing) as being a holder for a removable shower head housing that according to the examiner's interpretation is an arbitrary internal element. There is no disclosure or suggestion of means whereby the internal part is removable for regular use, and if removed, the internal part as well as the assembly left behind both would be rendered nonfunctional for use as showers.

At col. 4, lines 50 and following, Gransow's disclosure is clearly explains that the Gransow shower heads have cup-shaped bodies 40 formed with mounting stems 41a

and 41b, centered on the respective axis 400 at which the shower heads are pivotally but non-removably mounted. Thus, the Gransow reference clearly discloses that the element 40 is part of the shower head and not a holder for a shower head. The examiner's interpretation of element 40 as a holder for a removable shower head is clearly erroneous. Gransow does not disclose or suggest the invention defined in independent claim 1 or the claims depending therefrom.

The examiner's construction of the prior art disclosure (as shown by the diagram and discussion beginning on page 7 of the official action) further provides that the alleged holder in Gransow (element 40) engages the housing of the shower head at two locations on its surface which are approximately opposite and diametrical opposed. This statement is not correct even if the body 40 of Gransow's shower head is construed as its holder.

Fig. 4 of Gransow is a section view. The examiner designates an internal part of the Gransow structure as the housing and designates a part of the front bezel ring a jaws. However, as shown in Fig. 4 of Gransow and at page 7 of the official action, the front bezel ring is not a part that engages with the internal part of the structure that the examiner has construed to be the housing. The front bezel ring is biased by the front disk that forms the water jets, against the body 40 by the screw shown in the middle of the drawing of Fig. 4.

Furthermore, the ring which the examiner interprets as a jaw is not tensioned radially inwardly. Its tension is axial if anything. The ring is tensioned in figure 4 at the upper side by an axially oriented screw shown in the middle of the figure.

The foregoing discussion of specific points shows examples of aspects by which Gransow as officially interpreted does not in fact disclose the claimed invention and cannot reasonably be compared to the claimed invention. The rejection is erroneous and applicant requests that the rejection be withdrawn and the claims allowed. Gransow fails to disclose or suggest a pivoting mounting arm as claimed wherein a shower head is attachably and detachably received in the mounting arm.

Gransow fails to disclose or suggest applicant's invention as particularly and distinctly claimed, or any comparable structure or function. In order to better distinguish over Gransow, applicant has amended claim 1 to further define over Gransow by reciting that the shower head is coupled to the water supply by a shower hose (supported in the specification at paragraphs [0018] and [0023] and shown in the drawings). Claim 1 as amended also defines that the shower head remains functionally supplied by the hose (the shower head can still be used to spray water) when it is removed from the holder, which recital is copied into claim 1 from former claim 15 (now cancelled). These aspects conclusively distinguish from Gransow even if one can accept all or part of the examiner's interpretation of internal structures within Gransow's housing as constituting a shower head housing in a holder, as was attempted by the examiner in the last official action.

Thus, it is an aspect of applicant's the detachably removable shower head as disclosed and claimed, that the user has the ability to remove and use the shower head, namely spraying water supplied to the detached shower head through the shower hose that couples to a water supply. This aspect is expressly defined in claim 1 as amended and is not disclosed or suggested in Gransow or Gransow as interpreted in hindsight in the official action.

Gransow lacks any teaching or suggestion of a dual use wall-arm-mounted or detached and hose-coupled hand shower. The examiner's efforts to conform Gransow's disclosure to the claims are deficient. In fact, how the examiner can even suggest that Gransow's construed internal housing has a hand grip (see claim 26), and how the examiner can aver regarding claim 15 that Gransow's shower head is functional when withdrawn from its alleged holder, simply cannot be understood. The rejection lacks support in the prior art reference and must be withdrawn.

The differences between the invention and the prior art are such that the subject matter claimed, as a whole, is not shown to be met by Gransow. There is likewise no reasoned explanation of how the different functions and structures defined in applicant's claims but not in Gransow might have been within the level of ordinary skill in the art. There is no statement of how or why disassembling Gransow's shower head might be

perceived by the person of ordinary skill to be likely to succeed if attempted. There is no basis of record to conclude that the invention claimed as a whole would have been known or obvious.

Therefore, the claim as now presented are in condition for allowance. Applicant requests reconsideration and allowance of the pending claims.

Respectfully submitted,

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